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HOUSE BILL 3036 By
Walley

SENATE BILL 3108
By Person

AN ACT to amend Tennessee Code Annotated Title 71, Chapter 1,
Part 1, relative to child care services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

71-1-____. Child care services fraud; restitution; civil recovery of overpayments.

(a)(1) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person or entity to obtain or attempt to obtain, by means of a willfully false statement or representation or by impersonation, or by any fraudulent scheme, any child care services, or payments for child care services, which are provided under any program by the department of human services or by or through any of the department's grantees or contractors, to which such person or entity is not entitled, or of a value greater than that to which such person or entity is entitled, the value of which is, or would be, one hundred dollars (\$100) or more, commits a Class E felony. Upon conviction thereof, such person shall be sentenced for such offense as provided by law, or shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both.

(2) If the value of child care services or the payment for such services obtained in the manner described in subdivision (1) is, or would be, less than one hundred dollars (\$100), such person commits a Class A misdemeanor and shall be sentenced for such offense, or shall be fined, or both, as provided by law.

(b) In addition to any of the foregoing penalties, any person convicted of any offense specified in subsection (a) shall be ordered to make restitution in the total amount found to be the

value of the child care services which form the basis for the conviction. In the event any person ordered to make restitution pursuant to this section is found to be indigent and, therefore, unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

(c) Notwithstanding any other provision of law to the contrary, prosecutions for any of the offenses specified in subsection (a) shall be commenced within four (4) years next after the commission of the offense. For purposes of this subsection, any such offense which is based upon a willful failure to report information as required by law or by any program requirements relating to eligibility for child care services is considered a continuing offense until such information is reported.

(d) The department of human services may recover by civil action in any appropriate court the value of child care services which have been incorrectly paid to or received by any person or any entity and the costs of the proceeding and reasonable attorneys fees necessary for collection.

(e)(1) For purposes of this section, "child care" consists of the supervision, protection, and provision for the basic physical, developmental or emotional needs of a child, or evidence of any effort to provide for, or any apparent or stated intent to provide for, the supervision, protection, and basic physical, developmental or emotional needs of a child by any person or

entity outside the child's own home or by a person who comes to the child's home, whether or not the person or entity is licensed to provide such care or is unregulated.

(2) For purposes of this section "services" shall include the payment for, or provision by, the department of human services, its grantees or its contractors of:

A. Any costs of, or any fees for, child care provided by any person or entity; or

B. Any transportation costs or any transportation fees for the child to obtain child care or any related child care services; or

C. Any food supplement or meal assistance programs, excluding the food stamp or food assistance program under title 71, chapter 5, part 3, for a child who is receiving child care.

SECTION 2. This act shall take effect on July 1, 2000, the public welfare requiring it.